

91<sup>st</sup> Legislative Session – 2016

Committee: Senate Taxation

Monday, February 22, 2016

P - Present  
E - Excused  
A - Absent

Roll Call

P Ewing  
E Fiegen  
P Frerichs  
P Haggar (Jenna)  
P Peterson (Jim)  
P Greenfield (Brock), Vice-Chair  
P Monroe, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Monroe, Chair.

MOTION: TO APPROVE THE MINUTES OF FEBRUARY 17, 2016

Moved by: Greenfield (Brock)  
Second by: Ewing  
Action: Prevailed by voice vote.

SB 147: exempt certain amateur sports coaches from sales and use tax.

Presented by: Senator Greenfield (Brock)  
Proponents: Representative Partridge  
Opponents: Doug Schinkel, Department of Revenue

MOTION: DO PASS SB 147

Moved by: Haggar (Jenna)  
Second by: Greenfield (Brock)  
Action: Prevailed by roll call vote. (4-1-2-0)

Voting Yes: Haggar (Jenna), Peterson (Jim), Greenfield (Brock), Monroe

Voting No: Ewing

Excused: Fiegen, Frerichs

SB 165: authorize the manufacture of cider in certain amounts.

Presented by: Senator Haggar (Jenna)

Proponents: Ken Jorgenson, Brandon, self

Opponents: Bob Riter, SD Beer Distributors  
William Van Camp, MillerCoors LLC  
Jason Evans, Department of Revenue

MOTION: AMEND SB 165

165yc

On the printed bill, delete everything after the enacting clause and insert:

" Section 1. That § 35-4-49 be amended to read:

35-4-49. A manufacturer licensed under subdivision 35-4-2(14) may only sell malt beverages to a wholesaler licensed under subdivision 35-4-2(15), or to a wholesaler licensed under subdivision 35-4-2(2), may only sell cider to a wholesaler licensed under subdivision 35-4-2(2) or may sell such beverages for transportation in interstate commerce outside the state. A wholesaler licensed under subdivision 35-4-2(15) may sell such malt beverages to retailers licensed under this chapter. Each malt beverage wholesale licensee for nonpasteurized products shall designate on the application, the territory within which the licensee may sell the designated nonpasteurized products of any brewer for the purpose of quality control, when such territory has been agreed to by the licensee and the brewer.

Section 2. That § 35-5-3.2 be amended to read:

35-5-3.2. In addition to the provisions of § 35-4-49, a malt beverage and cider manufacturer may sell the malt beverage and cider such manufacturer manufactures to the public for consumption on the licensed premises. A malt beverage and cider manufacturer who manufactures less than five thousand barrels of malt beverage and cider a year may hold on the premises where the malt beverage is manufactured an on-sale license issued pursuant to subdivision 35-4-2(4) and subject to the quota established in § 35-4-11 or a malt beverage retailer's license issued pursuant to subdivision 35-4-2(16) or an on-sale wine license issued pursuant to subdivision 35-4-2(12). The manufacturer shall pay the tax imposed under subdivision 35-5-3(1) on all malt beverages and shall pay the tax

imposed under subdivision 35-5-3(4A) on all cider so sold. Any manufacturer who holds a malt beverage retailer's license or an on-sale license as provided in this section may also hold a malt beverage retailer's license or an on-sale license at other locations but may sell the malt beverages and cider it manufactures only at the location where the beverages are manufactured or to wholesalers licensed pursuant to this title.

Section 3. That § 35-5-3.3 be amended to read:

35-5-3.3. A malt beverage and cider manufacturer who possesses an on-sale license authorized pursuant to § 35-5-3.2 may be issued a malt beverage package dealer's license issued pursuant to subdivision 35-4-2(17), or an off-sale license issued pursuant to subdivision 35-4-2(3) and subject to the quota established in § 35-4-10 for such premises where the malt beverage and cider is manufactured, limited to the sale of malt beverages and cider the manufacturer manufactures. The manufacturer shall pay the tax imposed under subdivision 35-5-3(1) on all malt beverages and shall pay the tax imposed under subdivision 35-5-3(4A) on all cider so sold.

Section 4. That subdivision (9) of § 35-1-1 be amended to read:

35-1-1. Terms used in this title mean:

- (9) "Manufacturer," any person who owns, has a controlling interest in, operates, or aids in operating any establishment for the brewing, production, bottling, or blending of malt beverages, cider, or wine;

Section 5. That § 35-4-2 be amended to read:

35-4-2. Classes of licenses, with the fee of each class, follow:

- (1) Distillers--four thousand dollars. However, no license fee is required for manufacturers of alcohol for use in industry as a nonbeverage. If the manufacturer of industrial alcohol shall at any time manufacture, produce, distill, sell, barter, or dispose of alcohol for any use other than an industrial use, the license fee required by this section shall be allocated to and payable for the portion of the year the manufacturer devoted to such other use for each calendar month or fraction thereof while so engaged, but in no case less than one-twelfth of the license fee;
- (2) Wholesalers of alcoholic beverages--five thousand dollars;
- (3) Off-sale--not less than five hundred dollars in municipalities of the first class, not more than four hundred dollars in municipalities of the second class, and not more than three hundred dollars in municipalities of the third class. The renewal fee for such licenses may not exceed five hundred dollars in municipalities of the first class, four hundred dollars in municipalities of the second class, and three hundred dollars in municipalities of the third class;

- (4) On-sale--in municipalities of various classes: municipalities of the first class, not less than one dollar for each person residing within the municipality as measured by the last preceding federal census, the renewal fee for such license is fifteen hundred dollars; municipalities of the second class, no more than twelve hundred dollars; municipalities of the third class, no more than nine hundred dollars;
- (5) Off-sale licenses issued to municipalities under local option--not less than two hundred fifty dollars;
- (6) On-sale licenses issued outside municipalities--except as provided in § 35-4-11.9, not less than the maximum that the municipality to which the applicant is nearest is charging for a like license in that municipality, the renewal fee shall be the same as is charged for a like license in the nearest municipality. However, if the nearest municipality is more than fifteen miles from the on-sale license, the fee shall be established pursuant to § 35-4-11.10. If the municipality to which the applicant is nearest holds an on-sale license, pursuant to § 35-3-13 and does not charge a specified fee, then the fee shall be the maximum amount that could be charged as if the municipality had not been authorized to obtain on-sale licenses pursuant to § 35-3-13. However, if the nearest municipality is a municipality of the first class and is authorized to hold an on-sale license pursuant to § 35-3-13, such fee may not be more than one hundred fifty percent of the minimum a municipality not so authorized may charge for a like license. The renewal fee shall be the same as could be charged for a like license in the nearest municipality;
- (7) Solicitors--twenty-five dollars;
- (8) Transportation companies--twenty-five dollars;
- (9) Carrier--one hundred dollars, which fee entitles the licensee to sell or serve alcoholic beverages on all conveyances the licensee operates within the state unless restricted by local ordinance;
- (10) Dispensers--ten dollars;
- (11) On-sale dealers at publicly operated airports--two hundred fifty dollars;
- (12) Wine retailers, being both package dealers and on-sale dealers--five hundred dollars;
- (13) Convention facility on-sale--not less than one dollar for each person residing within the municipality as measured by the last preceding federal census, the renewal fee for such license, in municipalities of the first class, is fifteen hundred dollars; the renewal fee for such license, in municipalities of the second class, is no more than twelve hundred dollars; the renewal fee for such license, in municipalities of the third class, is no more than nine hundred dollars;
- (14) Manufacturers of malt beverages and cider--five hundred dollars;
- (15) Wholesalers of malt beverages--four hundred dollars;
- (16) Malt beverage retailers, being both package dealers and on-sale dealers--three hundred dollars;
- (17) Malt beverage package dealers--two hundred dollars;
- (17A) Malt beverage and wine produced pursuant to chapter 35-12 package dealers--two hundred twenty-five dollars;
- (18) On-sale dealers in light wine containing not more than six percent alcohol by weight for

- each day of the week between the hours of seven a.m. and two a.m. to nonprofit corporations established pursuant to chapter 7-7--two hundred dollars;
- (19) Off-sale package wine dealers in table wines, sparkling wines, sacramental wine, and distilled spirits produced from product provided to an artisan distiller by the respective farm winery to be operated in conjunction with a farm winery established pursuant to chapter 35-12--one hundred fifty dollars;
- (20) Malt beverage retailers, being both package dealers and on-sale dealers, and retailers of wine produced pursuant to chapter 35-12, being both package dealers and on-sale dealers--three hundred twenty-five dollars; and
- (21) Retail on premises manufacturer--two hundred fifty dollars."

Moved by: Ewing  
Second by: Frerichs  
Action: Prevailed by voice vote.

MOTION: DO PASS SB 165 AS AMENDED

Moved by: Greenfield (Brock)  
Second by: Haggar (Jenna)  
Action: Failed by roll call vote. (3-3-1-0)

Voting Yes: Ewing, Haggar (Jenna), Monroe

Voting No: Frerichs, Peterson (Jim), Greenfield (Brock)

Excused: Fiegen

MOTION: AMEND SB 165

165yb

On the printed bill, delete everything after the enacting clause and insert:

" Section 1. That chapter 35-1 be amended by adding a NEW SECTION to read:

No person may manufacture, sell, offer to sell, purchase, possess, or use any alcohol in powder form. For the purposes of this section, the term, alcohol in powder form, means an alcoholic product that is created using micro-encapsulation or other evaporation technique, and may be reconstituted with water to create an alcoholic beverage.

A violation of this section is a Class 1 misdemeanor."

Moved by: Greenfield (Brock)  
Second by: Peterson (Jim)  
Action: Failed by roll call vote. (3-3-1-0)

Voting Yes: Frerichs, Peterson (Jim), Greenfield (Brock)

Voting No: Ewing, Haggard (Jenna), Monroe

Excused: Fiegen

MOTION: WITHOUT RECOMMENDATION SB 165 AS AMENDED

Moved by: Greenfield (Brock)  
Second by: Ewing  
Action: Prevailed by roll call vote. (4-2-1-0)

Voting Yes: Ewing, Haggard (Jenna), Peterson (Jim), Greenfield (Brock)

Voting No: Frerichs, Monroe

Excused: Fiegen

HB 1083: change the taxation method used in the sale of certain off-road vehicles and require that the sale of these vehicles be by licensed vehicle dealers.

Presented by: Senator Rampelberg  
Proponents: Representative Stalzer  
Myron Rau, South Dakota Auto Dealers Association

MOTION: DO PASS HB 1083

Moved by: Ewing  
Second by: Peterson (Jim)  
Action: Prevailed by roll call vote. (6-0-1-0)

Voting Yes: Ewing, Frerichs, Haggard (Jenna), Peterson (Jim), Greenfield (Brock), Monroe

Excused: Fiegen

MOTION: ADJOURN

Moved by: Haggar (Jenna)  
Second by: Greenfield (Brock)  
Action: Prevailed by voice vote.

Mona Oehlerking  
Committee Secretary

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Jeff Monroe, Chair